

Welcome to the July edition of the ELiAction newsletter for 2010, providing you with useful information regarding changes to employment legislation and best practice.

EQUALITY ACT 2010

At last it has been confirmed that the majority of the Equality Act will be introduced in October 2010. Some of the key changes for employers include:

Pre Employment Health Related Checks

In the past many companies have carried out health checks as part of their recruitment and pre employment processes. From October 2010 employers will only be able to ask health related questions prior to offering a position, if the health related question will help the Company to:

- decide whether they need to make any reasonable adjustments in respect of the selection process. Any information divulged by the candidate in this respect could not then be used when deciding who to employ.
- decide whether an applicant can carry out a function or responsibility that is '*intrinsic*' to the job. For example if heavy lifting was a specific requirement for the role, a related health question could be asked.
- to monitor diversity among potential candidates so to evaluate whether the recruitment methods are reaching disabled people.
- take positive action to assist disabled people, where the Company may wish to improve disabled peoples chance of being selected for

vacant positions. In which case the Company would guarantee these individuals an interview.

- assure the Company that the individual has a disability which may be required for the job.

Extension Of Employment Tribunal Powers

Currently Tribunals can recommend that employers take action to eliminate or reduce the effect of any discrimination in respect of a claimant. However from October Tribunals will be able to extend their recommendations to include other employees, for example the Tribunal may make a recommendation that the Company reviews its policies or trains all employees about equal opportunities.

Equal Pay

Under the new act a claim of direct pay discrimination can be made without the need for a real comparator within the organisation, providing that the Claimant can show evidence that they would have received better remuneration from their employer if they were of a different sex.

Pay Secrecy

Employers will not be able to prevent or restrict their employees from discussing their pay with each other. However, any such discussion should be for the purpose of establishing differences in pay on the basis of discrimination.

Equality Reports

The Act includes powers for Ministers to require public bodies to report on equality issues, the precise duties still have to be confirmed, however it is

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Employment Law in Action

anticipated that public bodies with over 150 employees will from 2011 be required to publish annual details of their:

- gender pay gap
- ethnic minority employment rate
- disability employment rate.

It is also anticipated that Private Sector gender pay reporting will take effect in 2013.

ABOLISHING THE RETIREMENT AGE

The Government announced in the June budget that they will begin consultation on how quickly the Default Retirement Age of 65 will be phased out. The intention is that this will be effective from April 2011, however the impact on the current Statutory Retirement procedures remains to be seen.



If you would like assistance in updating your policies, would like advice on any employment issues, or would like to discuss any other HR and legal requirements please contact Employment Law in Action Limited on 01494 817193 or email info@ELiAction.com.

In giving comment and advice in the newsletter, we do not assume legal responsibility for the accuracy of any particular statement. If you have specific views which you wish to discuss we would be pleased to assist you.